

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE MINNESOTA PUBLIC UTILITIES COMMISSION

In the Matter of an Investigation Regarding
Qwest's Compliance with Section 271 of the
Telecommunications Act of 1996 with
Respect to the Provisions of InterLATA
Services Originating in Minnesota

PUC Docket No. P-421/CI-96-1114
OAH Docket No. 12-2500-14473-2

In the Matter of a Commission Investigation
into Qwest's Compliance with Section
271(c)(2)(B) of the Telecommunications Act
of 1996; Checklist items 3, 7, 8, 9, 10, and
12

PUC Docket No. P-421/CI-01-1370
OAH Docket No. 12-2500-14485-2

In the Matter of a Commission Investigation
into Qwest's Compliance with Section
271(c)(2)(B) of the Telecommunications Act
of 1996; Checklist items 1, 2, 4, 5, 6, 11, 13,
and 14

PUC Docket No. P-421/CI-01-1371
OAH Docket No. 12-2500-14486-2

In the Matter of a Commission Investigation
into Qwest's Compliance with Section 272 of
the Telecommunications Act of 1996's
Separate Affiliate Requirement

PUC Docket No. P-421/CI-01-1372
OAH Docket No. 7-2500-14487-2

In the Matter of a Commission Investigation
into Qwest's Compliance with Section
271(d)(3)(C) of the Telecommunications Act
of 1996 That the Requested Authorization is
Consistent with the Public Interest,
Convenience and Necessity

PUC Docket No. P-421/CI-01-1373
OAH Docket No. 7-2500-14488-2

In the Matter of a Qwest's Statement of
Generally Available Terms (SGAT) Pursuant
to Section 252(f) of the Telecommunications
Act of 1996

PUC Docket No. P-421/CI-01-1374
OAH Docket No. 7-2500-14489-2

In the Matter of the Commission's Review
and Investigation of Qwest's Unbundled
Network Element (UNE) Prices

PUC Docket No. P-421/CI-01-1375
OAH Docket No. 12-2500-14490-2

PREHEARING ORDER

These matters came on for prehearing conference before Administrative Law Judges Steve M. Mihalchick and Richard C. Luis on September 21, 2001, in the Minnesota Public Utilities Commission's Large Hearing Room, 121 Seventh Place East, Suite 350, St. Paul, Minnesota.

The following persons noted their appearances at the prehearing conference:

Jason Topp, John Munn (by telephone), and Robert E. Cattenach, for Qwest Corporation (Qwest).

Priti R. Patel and Peter Marker, Assistant Attorneys General, for the Department of Commerce (DOC or the Department).

Ronald Giteck and Jeanne M. Cochran, Assistant Attorneys General, for the Office of the Attorney General, Residential Utility and Small Business Division (OAG-RUD).

Lesley Lehr and Gregory R. Merz, for MCI WorldCom, Inc., (WorldCom).

Rebecca DeCook (by telephone) and Sandra Hofstetter for AT & T .

Michael Bradley, the Minnesota Independent Coalition (MIC) and the CLEC Coalition.

Megan Doberneck (by telephone) for Covad Communications Company (Covad).

Donald A. Low for Sprint Communications Co. L.P. (Sprint).

Dan Lipshultz for McLeod U.S.A. Telecommunication Services (McLeod U.S.A.)

Karen Hammel, Assistant Attorney General, Commission Counsel, for the Public Utilities Commission (Commission).

Diane Wells, Analyst, for the Commission staff, several of whom were also present.

PARTIES

1. The parties to these dockets named in the Commission's Notice and Order for Hearing of September 11, 2001, who appeared at the prehearing conference are Qwest, the Department, OAG-RUD, the CLEC Coalition, and Covad. They shall be considered full parties with the right to present evidence, cross-examine witnesses, participate in motions, and submit briefs in all dockets. Also named as parties in the Order for Hearing, but not appearing at the prehearing conference, or filing Notices of

Appearance, were the Telecommunications Resellers Association, Global Crossing, New Edge Network, and Eschelon. If they file Notices of Appearance by October 31, 2001, they shall be considered full parties. Meanwhile, they shall be listed as interested persons.

2. Petitions to Intervene as Parties have been filed by the following organizations and are granted:

a) Time Warner Telecom of Minnesota LLC, represented by John F. Gibbs and Rebecca M. Liethen.

b) Sprint Communications Company L.P., represented by Donald A. Low.

c) Covad Communications Company represented by Megan Doberneck and W. Patrick Judge.

d) AT&T Communications of the Midwest, Inc., TCG Minnesota, Inc., and AT&T Broadband Phone of Minnesota, Inc., (collectively, "AT&T"), represented by Steven H. Weigler and Sandra L. Hofstetter.

e) The Minnesota Independent Coalition, represented by Michael J. Bradley and Richard J. Johnson.

3. The final date for filing Petitions to Intervene is October 31, 2001. Any persons petitioning to intervene after that date may be restricted as to the scope of their participation.

4. Any person allowed to intervene in this proceeding after the date of this Order shall be bound by the terms of this Order.

5. McLeod U.S.A. has not determined whether it wishes to intervene as a party and shall be listed on the Office of Administrative Hearings' service list as an interested person. Any other person desiring to be on the OAH service list may file a Notice of Appearance

SEPARATE DOCKETS

6. This matter has been divided into the dockets listed in the combined caption. Parties, other than Qwest, need not participate in all dockets.

7. Evidence admitted in any docket is considered admitted in all dockets and need not be reintroduced. Exhibits shall be numbered so that numbers are not repeated in other dockets. Parties offering evidence shall agree on an exhibit numbering scheme. The parties shall attempt to schedule witnesses to avoid unnecessary multiple trips to St. Paul for witnesses and for attorneys not participating in all dockets. The parties may agree to allow direct and cross-examination of a witness on issues in a docket other than the one the witness is appearing in or to allow telephone or video testimony.

8. The following dockets are assigned to Administrative Law Judge Steve M. Mihalchick: Dkt 114 (General Matters), Dkt 1370 (Non-OSS Checklist Items), Dkt 1374 (SGAT), DKT 1375 (Pricing).

9. The following dockets are assigned to Administrative Law Judge Richard C. Luis: Dkt 1371 (OSS Checklist Items), Dkt 1372 (Separate Affiliate), Dkt 1373 (Public Interest).

SCHEDULE

10. The following schedule is adopted:

Week of:	Dkt 1370 non OSS checklist items	Dkt 1371 OSS-related items	Dkt 1372 separate affiliate	Dkt 1373 public interest	Dkt 1374 SGAT(all checklist items)	Dkt 1375 Pricing
10/1	10/1 Qwest initial filing		10/1 Qwest initial filing		10/1 Qwest initial filing (non oss)	
10/8						10/9 Parties file lists of UNEs to be priced
10/15						10/15 Responses filed 10/19 1:30 phc at PUC
10/22						10/22 ALJ order
10/29						
11/5						
11/12			11/15 Responses filed			11/16 Parties file cost estimates
11/19	11/21 Responses filed	11/21 Qwest initial filing				
11/26						

Week of:	Dkt 1370 non OSS checklist items	Dkt 1371 OSS-related items	Dkt 1372 separate affiliate	Dkt 1373 public interest	Dkt 1374 SGAT(all checklist items)	Dkt 1375 Pricing
12/3	12/7 Qwest reply		12/6-7 Hearing			
12/10	12/13 Surreplies		12/14 Briefs	12/10 Qwest initial filing		
12/17	12/17-21 Hearing					
12/24						
12/31		1/4 Qwest supplemental filing			12/28 Responses filed(non oss)	
1/7			1/7 ALJ Report		1/11 Qwest initial filing (oss)	1/11 Responses filed
1/14				1/14 Responses filed		
1/21	1/25 briefs					1/21-2/8 Hearing
1/28						1/21-2/8 Hearing
2/4						1/21-2/8 Hearing
2/11	2/13 ALJ report	2/15 Responses filed				
2/18					2/22 Responses filed(oss)	
2/25		3/1 Qwest reply		2/26-28 Hearing		
3/4		3/6 Surreplies			3/8 Qwest reply	
3/11		3/11-15 Hearing		3/15 Briefs	3/16 Surreplies	3/15 briefs
3/18					3/18-22 Hearing	

Week of:	Dkt 1370 non OSS checklist items	Dkt 1371 OSS-related items	Dkt 1372 separate affiliate	Dkt 1373 public interest	Dkt 1374 SGAT(all checklist items)	Dkt 1375 Pricing
3/25		3/26 Briefs		3/28 ALJ report		
4/1					4/2 Briefs	4/1 ALJ report
4/8						
4/15		4/15 ALJ Report			4/19 ALJ Report	

Please note the October 19, 2001, prehearing conference in Docket 1375 to take argument on the UNEs proposed for pricing.

11. Dates may be adjusted by the Administrative Law Judge assigned to the particular docket. In particular, Docket 1371 is dependent upon the ROC OSS report date.

12. Any motions should be filed as soon as possible. Additional conferences may be scheduled as needed.

FILING OF DOCUMENTS

13. Prefiled testimony and exhibits may be in any reasonable format that is understandable; logically organized; and able to be cited by page and line number, paragraph number, or similar identifier.

14. All documents filed, including prefiled testimony, but excluding information requests and responses, shall be filed as follows:

a) Prior to the issuance of the Reports of the Administrative Law Judges, one paper copy of all documents shall be delivered or mailed to the Office of Administrative Hearings. An electronic copy shall also be filed, either by email or on CD or PC-compatible diskettes. Originals of all exhibits shall be retained by the party to be offered at the hearing.

b) Following the Report of the Administrative Law Judge, the original of all documents shall be filed with the Executive Secretary of the Commission.

c) Copies of all documents shall be served on the persons listed on the attached service list. The list will be revised as necessary by the Office of Administrative Hearings. Service shall be made according to the most current service list provided to the parties by the Office of Administrative Hearings.

d) Pursuant to Minn. R. 1400.5100, subp. 9, and Minn. R. 7829.0400, subp. 1, the effective date of filing shall be the date the document is mailed to the Office of Administrative Hearings or delivered to the Executive Secretary of the Commission.

e) Proof of service shall be filed with each filed document or within three business days thereafter.

15. One copy of any document or information filed with or supplied to the Commission or the Commission staff shall be served upon every party.

DISCOVERY

16. All requests for information shall be made in writing to the person from whom the information is sought with a copy of the request mailed to all parties of record and the Administrative Law Judge. The party responding to the information request shall provide the information requested to the requesting party within five business days after receipt of the request. There shall be a continuing obligation to update and supplement information responses. The information need not be supplied as a matter of course to all other parties unless specifically requested by a party. Information requests received after 3:00 p.m. on business days or on weekends or State holidays shall be considered to be received on the following business day, except that any U.S. Mail received during business hours shall be considered to be received on the same day.

17. In the event the information cannot be supplied within the five business days, the responding party shall notify the requesting party as soon as reasonably possible in advance of the deadline of the reasons for not being able to supply the information and to work out a schedule of compliance with the requesting party. All disputes concerning the reasonableness of discovery requests and the timing and sufficiency of responses shall be resolved by the Administrative Law Judge upon motion of a party. Such motion may be made by telephone conference among the Administrative Law Judge and affected parties.

18. Parties asked to provide "Confidential Information" may require the requesting party to comply with the terms of the Protective Agreement entered into in ***In the Matter of a Generic Investigation of U S West Communications, Inc.'s Cost of Providing Interconnection and Unbundled Network Elements***, as modified by subsequent Orders Directing Production of Vendor Proprietary Information in that matter; PUC Docket Nos. P-442, 5231, 3167,466, 421/C1-96-1540; OAH Docket No. 12-2500-10956-2.

19. Further discovery may be had in accordance with Minn. R. 1400.6700 - 1400.6900 insofar as these provisions do not alter the special process for this proceeding established by this Order.

PREFILED TESTIMONY AND ORDER OF TESTIMONY

20. Prefiled direct and rebuttal testimony shall not be bound into the record, but shall be received as exhibits. Prefiled testimony that is amended or that is not offered into the record shall be considered withdrawn and the sponsoring witness may not be cross-examined concerning the withdrawn testimony. Except for cause shown, all substantive revisions or corrections to any prefiled testimony shall be made in writing and served upon the Administrative Law Judge and the parties by email no later than three days prior to commencement of the evidentiary hearing.

21. Except for good cause shown, any new affirmative matter that is not offered in reply to another party's direct or rebuttal evidence shall not be offered in rebuttal or surrebuttal testimony and exhibits. However, the parties may raise in rebuttal or surrebuttal testimony affirmative matters in response to new issues that arise on cross-examination during the course of the evidentiary hearing.

22. Unless the parties agree otherwise, the order of testimony and questioning in the evidentiary hearings shall be: Qwest, non-agency parties, DOC, OAG-RUD.

EXAMINATION OF WITNESSES

23. Witnesses shall be allowed ten minutes to summarize and update their prefiled testimony. Additional time may be allowed if necessary to respond to new issues raised by other parties if no response was previously allowed.

24. Parties shall examine and cross-examine witnesses through their attorneys, if they are represented by counsel. Any party not represented by counsel may examine and cross-examine each witness through any one representative chosen by the party.

25. Except for good cause shown, objections by any party relating to the qualifications of a witness or the admissibility of any portion of a witness's prefiled testimony shall be considered waived unless the objecting party states in writing its objection with particularity to the Administrative Law Judge and serves a copy of such objections on the Commission and all other parties prior to commencement of the evidentiary hearing. If an objection is made by a party, the party shall be permitted to lay further foundation for the objection through cross-examination of the witness. Any prefiled testimony which is not objected to shall be admitted during the evidentiary hearings without the necessity of laying foundation for the testimony.

October 3, 2001

/s/ Steve M. Mihalchick
STEVE M. MIHALCHICK
RICHARD C. LUIS
Administrative Law Judges